

HOUSE BILL REPORT

HB 2376

As Reported by House Committee On: Ways & Means

Title: An act relating to delaying the implementation of Initiative Measure No. 1029

Brief Description: Delaying the implementation of Initiative Measure No. 1029.

Sponsors: Representative Pettigrew.

Brief History:

Committee Activity:

Ways & Means: 4/25/09 [DPS].

Brief Summary of Substitute Bill

- Delays the implementation dates for long-term care worker fingerprint-based background checks, training, and certification under Initiative 1029.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Linville, Chair; Ericks, Vice Chair; Alexander, Ranking Minority Member; Cody, Conway, Darneille, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Priest, Ross, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 4 members: Representatives Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler and Schmick.

Staff: Chris Cordes (786-7103) and Carma Matti (786-7140)

Background:

Long-term Care Workers.

Long-term care workers provide care to elderly and disabled clients, many of whom are eligible for publicly funded services through the Department of Social and Health

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. These workers provide their clients personal care assistance with various tasks such as bathing, eating, toileting, dressing, ambulating, meal preparation, and household chores. These services may be provided in the client's home by individual providers who contract directly with the DSHS or by agency providers who are employees of a licensed home care agency. This paid provider may be a relative or a household member, although the client's spouse may not be a paid provider under most programs.

Background Checks for Long-term Care Workers.

Background Check Requirements prior to I-1029. Under various laws, the Department of Social and Health Services (DSHS) is responsible for investigating the suitability of applicants or service providers who provide in-home services under department programs. These investigations include an examination of state criminal history record information (CHRI). Some laws may also require a fingerprint-based national background check through the WSP and the CHRI maintained by the Federal Bureau of Investigation (FBI). Applicants or service providers who have resided in the state for fewer than three years must be fingerprinted through both the WSP and the FBI.

Background Check Requirements under I-1029. The passage of Initiative 1029 (I-1029) in 2008 added a new background check provision to the state law governing long-term care service options. The new provision requires all long-term care workers hired after January 1, 2010, to be screened through state and federal background checks, including checking against the FBI fingerprint identification records system and the National Sex Offenders Registry.

Long-term Care Worker Training and Certification

Training and Certification Requirements prior to I-1029. Until January 1, 2010, training requirements for long-term care workers are governed by DSHS rules. The rules generally require 34 hours of training, to be completed within 120 days after hire. Under DSHS rules, most long-term care workers must also have an additional 10 hours of continuing education. In 2007 a statutory requirement for 12 hours of continuing education was added for all long-term care workers beginning January 1, 2010. There is no long-term care worker credentialing requirement.

The DSHS training rules provide different training requirements for parents who are the individual providers for only their developmentally disabled son or daughter who receives services through the Division of Developmental Disabilities in the DSHS. They must complete six hours of training within 180 days. Until 2010 they are not required to have continuing education.

Additional training opportunities must be offered to long-term care workers who begin work on or after January 1, 2010. These include:

- on-the-job training or peer mentorship for at least one hour per week in the first 90 days of work from a long-term care worker who has completed 12 hours of mentor training and is mentoring no more than 10 other workers; and

- opportunities to accumulate 65 hours of advanced training within a reasonable time period.

For individual providers represented by an exclusive bargaining representative, all required training and peer mentoring must be provided by a training partnership beginning January 1, 2010. Beginning July 1, 2009, contributions to the training partnership must be made pursuant to a collective bargaining agreement negotiated with the Governor at the request of the individual providers' exclusive bargaining representative.

Training and Certification Requirements under I-1029. Under I-1029, long-term care worker training is modified and a new home care aide certification is required.

With certain exceptions, long-term care workers hired on or after January 1, 2010, must have 75 hours of training within 120 days after hire. Individual providers must be compensated for training time. Exceptions from the new training requirements include:

- parents who are the individual provider for only their developmentally disabled child, who must have 12 hours of relevant training within 120 days of becoming an individual provider; and
- individual providers caring only for their child or parent and, until 2014, certain respite providers, who must have 35 hours of training within 120 days of becoming an individual provider.

Long-term care workers hired on or after January 1, 2010, must also become certified by the Department of Health as home care aides within 150 days from the date of hire by completing the 75 hours of training and passing an examination. Certification is not required for individual providers caring only for their child or parent, long-term care workers employed by supported living providers, or, until 2014, certain respite providers.

Exemptions from continuing education requirements are provided for individual providers caring only for their child and, until 2014, certain respite providers. Individual providers must be compensated for training time.

Advanced training opportunities for long-term care workers must be offered for up to 70 hours beginning January 1, 2011.

The DSHS and the DOH must adopt rules to implement the I-1029 requirements by August 1, 2009.

Summary of Substitute Bill:

The requirements in I-1029 related to fingerprint-based background checks, new training and certification requirements for long-term care workers are delayed as follows:

- Fingerprint-based background checks for long-term care workers apply to workers hired on or after January 1, 2012, instead of January 1, 2010.
- New basic training applies to long-term care workers hired on or after January 1, 2011, instead of January 1, 2010.

- Home care aide certification applies to long-term care workers hired on or after January 1, 2011, instead of January 1, 2010.
- The increased continuing education requirements for long-term care workers apply beginning July 1, 2011, instead of January 1, 2010.
- Advanced training must be offered beginning January 1, 2012, instead of January 1, 2011.

Related agency rules must be adopted by August 1, 2010, instead of August 1, 2009.

Substitute Bill Compared to Original Bill:

The substitute bill replaces the original bill's legislative findings with provisions that delay the I-1029 implementation dates for long-term care worker fingerprint-based background checks, training, and certification.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 10, relating to rules permitting reciprocity with nursing assistant certification, which takes effect September 1, 2009.

Staff Summary of Public Testimony:

(In support) The delay in implementing I-1029 is a reasonable compromise that recognizes the fiscal constraints that the state is currently under.

(In support with concerns) The initiative's requirements are complex, and the application to the entire in-home care system is problematic, although the industry supports improved background checks and training. But one model does not work for everyone. There should be accommodation made, or a longer delay, for those who do not provide Medicaid-funded services.

(Opposed) None.

Persons Testifying: (In support) Misha Werschknl, Service Employees International Union 777 Northwest.

(In support with concerns) Julie Ferguson, Washington Private Duty Association; and Leslie Emerick, Home Care Association of Washington and Washington State Hospice and Palliative Care Organization.

Persons Signed In To Testify But Not Testifying: None.